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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* ERIC LAWRENCE BARSNESS, RANDY WILLIAM RUHLOW  
and JOHN MATTHEW SANTOSUOSO

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Appeal 2009-005285  
Application 10/691,295  
Technology Center 2100

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*Before* JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and  
CAROLYN D. THOMAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

#### STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, 6-9, 11-14, 16, 17, and 20. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

According to Appellants, the invention “relates to caching database pages via host variable correlation” (Spec. 1:7-8).

Claim 1 is illustrative:

1. A method comprising:

finding a correlation between a first statement and a previous statement, wherein the finding the correlation further comprises finding a host variable in the previous statement in a history that matches a host variable in the first statement, wherein first data supplied for the host variable in the first statement matches previous data associated with the host variable in the previous statement, wherein the host variable in the previous statement and the host variable in the first statement comprise a variable in a host language that is set to a plurality of values in succession and submitted to a database;

predicting a second statement based on the previous statement, wherein the predicting further comprises finding the previous statement in the history and finding the second statement that was next in time following the previous statement in the history, wherein

the previous statement and the second statement comprise commands that were previously executed against the database; and

retrieving at least one page from the database based on the second statement, wherein the retrieving further comprises executing the second statement against the database.

*Rejection*

Claims 1, 2, 6-9, 11-14, 16, 17, and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sapia (CARSTEN SAPIA, On Modeling and Predicting Query Behavior in OLAP Systems, (1999)).

**FINDINGS OF FACT (FF)**

*Appellants' Specification*

1. Appellants' Specification discloses that:

A host variable is either: 1) a variable in a host language such as a C variable, a C++ variable, a COBOL data item, a Fortran variable, or a Java variable; or 2) a host language construct that is generated by an SQL precompiler from a variable declared using SQL extensions that is referenced in an SQL statement (Spec. 10:21-24).

*Sapia Reference*

2. Sapia discloses:

Example: The query  $q_1$  = 'Give me a ranking of garages according to the number of repairs summed up to the geographic region for 1998' has the following prototype  $p_{q1} = (M_{q1} = \{\# \text{of repairs}\}, D_r = \{\text{geogr.region}\}, D_s = \{\text{year, vehicle.all, customer.all}\})$ . (emphasis omitted) (see page 2-5, Definition 4.1 (Query Prototype)).

## PRINCIPLES OF LAW

### *Anticipation*

In rejecting claims under 35 U.S.C. § 102, “[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation.” *Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005) (citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992)).

### *Claim Construction*

“[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). During patent examination, claims are given their broadest reasonable interpretation in light of the specification as it would be interpreted by skilled artisans. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316 (Fed. Cir. 2005) (en banc) (citations omitted).

## ANALYSIS

### *Claims 1-2, 6-9, 11-14, 16-17, and 20*

Issue : Did the Examiner err in finding that the prior art discloses a host variable, as claimed?

The Examiner cites pages 6-7, section 4.2, and definition 4.6 of Sapia for teaching host variables (Ans. 4). Further, the Examiner finds that attributes are examples of host variables (Ans. 4). The Examiner finds that Sapia utilizes host variables (e.g., attributes) to calculate “the correlation

(e.g. distance) between current user queries and queries in the profile” (*see Ans. 4; see also Ans. 5*).

The Examiner also finds that attributes, which are examples of host variables, “are written in a host language (e.g. [,] the language used to design the database) (*Ans. 5; see also Ans. 12*). Further, the Examiner finds that an example of a host language, which is common in the art, is SQL (*see Ans. 12*).

Appellants contend that “Sapia at section 4.2, pages 2-6 and 2-7, and definitions 4.6 do[] not teach or suggest ‘attributes,’” but instead “describes that ‘two sessions have a common pattern if they contain similar queries,’ and similarity of queries is defined by ‘a distance measure...’” (App. Br. 25). Appellants further contend that Sapia’s distance is merely “calculated based on ‘the number of user interactions minimally needed to transform the query prototype  $q_1$  to the prototype of  $q_2$ ’” (App. Br. 25). We agree with Appellants.

Appellants define a host variable as (1) a variable in a host language such as a C variable, a C++ variable, a COBOL data item, a Fortran variable, or a Java variable; or (2) a host language construct that is generated by an SQL precompiler from a variable declared using SQL extensions that is referenced in an SQL statement (FF 1). Thus, the claimed host variable requires an element that is written in a specific host language or host language construct. However, the portions of Sapia cited by the Examiner as representing a host variable fail to disclose the required host language.

The difficulty we have with the anticipation rejection before us is that according to Appellants’ definition of a “host variable,” a “host variable” is written in an identifiable host language or host language construct.

However, there is no discussion regarding a “host language” in the cited portions of the Sapia reference. Without more of an explanation from the Examiner to correlate the teachings of Sapia to the claimed “host variable,” we are left to speculate as to how Sapia’s attribute corresponds to a host variable, which, according to Appellants’ definition, is written in a host language.

Therefore, we find that the Examiner has not set forth a sufficient initial showing of anticipation, and we find that Appellants have shown error in the Examiner’s rejection of representative claim 1. Independent claims 6, 11, and 16 are commensurate in scope with representative claim 1, with respect to the argued limitation. Claims 2, 7-9, 12-14, and 17 depend from independent claims 1, 6, 11, and 16, respectively. Accordingly, we reverse the Examiner’s rejection of independent claims 1, 6, 11, and 16, and claims 2, 7-9, 12-14, and 17 which stand therewith.

#### DECISION

The Examiner’s rejection of claims 1, 2, 6-9, 11-14, 16, 17, and 20 under 35 U.S.C. § 102(b), as being anticipated by Sapia, is reversed.

REVERSED

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